

Amendment No. 5 to SB2315

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 2315

House Bill No. 2430*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 2, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Bonded indebtedness" means bonds, notes, or other debt instruments with a term of not less than twenty (20) years issued by the county or county LEA, the proceeds of which were used to construct or renovate improvements to land;

(2) "Land" means the tract of real property upon which a school operated by a county LEA within the geographic boundaries of a municipal LEA is located, and all contiguous tracts of real property, if any, owned by the county or county LEA that are used for the operation of the school and that are located within the geographic boundaries of the municipal LEA; and

(3) "Municipal LEA" means an LEA:

(A) Established by a municipality pursuant to § 49-2-127; and

(B) That serves each of the grades kindergarten through twelve (K-12).

(b) Beginning on July 1, 2023, a county LEA shall not operate a school located within the geographic boundaries of a municipal LEA, except as authorized in this section.

(c)

(1) A county LEA may operate a school located within the geographic boundaries of a municipal LEA if the municipal LEA and the county LEA enter into a written agreement for such purpose by July 1 prior to the start of the school year immediately following the creation of the municipal LEA pursuant to § 49-2-127 or January 1, 2023, whichever is later. A written agreement entered into between a county LEA and a municipal LEA under this subdivision (c)(1) does not have to include the terms outlined in subdivisions (c)(2)(A)-(H).

(2) If a county LEA operates a school located within the geographic boundaries of a municipal LEA and the county LEA and the municipal LEA do not enter into a written agreement under subdivision (c)(1) by July 1 prior to the start of the school year immediately following the creation of the municipal LEA or January 1, 2023, whichever is later, then the municipal LEA, or the municipality in which the municipal LEA is located, shall enter into a written agreement with the county LEA to allow the county LEA to continue operating a school located within the geographic boundaries of the municipal LEA. A written agreement required under this subdivision (c)(2) must:

(A) Set the term of the agreement, which shall not exceed four (4) years; provided, that the county LEA and the municipal LEA may mutually agree at the conclusion of an initial four-year term to extend the agreement for an additional term that shall not exceed eight (8) years. An agreement shall not be extended more than once and shall not exceed a total of twelve (12) years;

(B) Identify each grade level to be taught at each school that is to be operated by the county LEA pursuant to the agreement;

(C) Describe the geographic boundaries of each school zone that is to be operated by the county LEA pursuant to the agreement;

(D) Comply, as applicable, with title 12, chapter 9 and §§ 49-2-1001 and 49-2-1101;

(E) Prohibit rent from being charged for the county LEA's operation of a school located within the geographic boundaries of the municipal LEA for the term of the agreement; provided, that rent may be charged for the county LEA's operation of a school located within the geographic boundaries of the municipal LEA for any year for which the county LEA and the municipal LEA mutually agree to extend the agreement beyond the agreement's initial four-year term;

(F) Establish that the county LEA is responsible for maintaining all improvements to the land for the term of the agreement, unless the parties to the agreement establish otherwise;

(G) Establish that the county LEA is responsible for all utilities and operating expenses of a school located within the geographic boundaries of the municipal LEA that the county LEA operates under the agreement for the term of the agreement, unless the parties to the agreement establish otherwise; and

(H) Be approved by the county LEA's local board of education and the municipal LEA's local board of education, or, if the municipal LEA does not have a local board of education, the municipal legislative body.

(d)

(1) If a county LEA owns or operates a school located within the geographic boundaries of a municipal LEA on July 1 prior to the start of the school year immediately following the creation of the municipal LEA pursuant to § 49-2-127 or July 1, 2023, whichever is later, then title to all real property and fixtures used by the county LEA for the operation of a school located within the geographic boundaries of the municipal LEA immediately vests to the municipal

LEA by operation of law on such date unless the county LEA and the municipal LEA have voluntarily entered into a written agreement under subdivision (c)(1), in which case title to all real property and fixtures used by the county LEA for the operation of a school located within the geographic boundaries of the municipal LEA immediately vests to the municipal LEA by operation of law on the date on which the written agreement terminates or expires without renewal.

(2) If title to all real property and fixtures used by the county LEA for the operation of a school located within the geographic boundaries of the municipal LEA vests pursuant to subdivision (d)(1), then the director of schools for the municipal LEA shall execute an affidavit evidencing transfer of title from the county LEA to the municipal LEA, or to the municipality in which the municipal LEA is located, and shall record the affidavit with the office of the register of deeds for the county in which the property is located. The effective date of a transfer of title pursuant to this subsection (d) is the date on which the municipal LEA's director of schools records the affidavit with the office of the register of deeds.

(e)

(1)

(A) A municipal LEA, or the municipality in which the municipal LEA is located, that receives title to all real property and fixtures pursuant to subsection (d) shall reimburse the county LEA for:

(i) The fair market value of the land transferred to the municipal LEA or the municipality in which the municipal LEA is located, excluding any improvements; and

(ii) The principal amount of any outstanding bonded indebtedness for the construction or renovation of improvements

to the land, as of the date on which title is transferred under subsection (d).

(B) For purposes of this subdivision (e)(1), "fair market value" is determined by taking the average of two (2) separate appraisals conducted by two (2) independent, qualified appraisers, one (1) selected by the county LEA and one (1) selected by the municipal LEA. If the county LEA or the municipal LEA objects to the average appraisal, then the two (2) independent appraisers selected pursuant to this subdivision (e)(1)(B) must select an independent, qualified appraiser to appraise the land and improvements, which will determine the fair market value.

(2)

(A) At least twenty-five percent (25%) of the reimbursement due to the county LEA must be paid to the county on the effective date of the transfer of title. The remainder of the reimbursement must be paid to the county LEA in eight (8) annual installments. The first installment is due one (1) year from the date on which title to all real property and fixtures was transferred to the municipal LEA, or to the municipality in which the municipal LEA is located, pursuant to subsection (d). All subsequent installments are due annually on that same date until the reimbursement obligation is satisfied.

(B) Subdivision (e)(2)(A) does not prohibit the municipal LEA, or the municipality in which the municipal LEA is located, from paying the reimbursement due to the county LEA in one (1) lump sum or in fewer or more frequent installments than required in subdivision (e)(2)(A).

(3) If the proceeds of any outstanding bonded indebtedness were used by the county or the county LEA to pay the costs of constructing or renovating improvements for more than one (1) property owned by the county or the county

LEA, then the principal amount of the bonded indebtedness, for purposes of subdivision (e)(1)(A)(ii), must be prorated based on the proportion that the actual construction costs for the improvements or renovations to the land bear to the total construction costs of all improvements funded by the bonded indebtedness used to fund the improvements or renovations to the land.

(f) The land and any improvements acquired by the municipal LEA, or the municipality in which the municipal LEA is located, must be used for kindergarten through grade twelve (K-12) educational purposes. If the municipal LEA, or the municipality in which the municipal LEA is located, determines that it is in the community's best interest to sell the land or any improvements thereon during the twenty-year period beginning on the date on which the affidavit evidencing transfer of title is recorded with the office of the register of deeds, then one-half (1/2) of the net proceeds must be divided equally between the municipal LEA, or the municipality in which the municipal LEA is located, as applicable, and the county LEA, less any payments made to the county LEA as provided in subsection (e).

(g) Upon the termination or expiration of a written agreement entered into between a county LEA and a municipal LEA under subsection (c), the municipal LEA shall operate a school located within the geographic boundaries of the municipal LEA that was previously operated by the county LEA pursuant to the written agreement.

SECTION 2. This act takes effect January 1, 2023, the public welfare requiring it.